

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 42, 43, 45-97, 103-138 and 145-149 are pending in the application, with claims 42, 48, 58, 64, 69, 75, 85, 91, 97, 145, 146 and 147 being the independent claims. Claims 139-144 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Claims 42, 97 and 147 are sought to be amended in accordance with the Examiner's comments. (See Paper No. 20, page 2.) It is believed that the amendments presented above will place the application in condition for allowance and/or in better form for appeal. The amended claims introduce no new matter and raise no new issues that would require further consideration and/or search. Applicants therefore respectfully request that the amendments after final action be entered and considered. *See* 37 C.F.R. § 1.116(a).

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

I. Claim Objections

Claims 42 and 97 were objected to because, according to the Examiner, "the claims do not begin with an article." (Paper No. 20, page 2.) Claims 42 and 97 have been amended to recite "One or more isolated *E. coli* cells. . ." Accordingly, the objection to claims 42 and 97 has been fully accommodated and should be withdrawn.

II. *Claim Rejections Under 35 U.S.C. § 112, First Paragraph*

Claims 145-149 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. (See Paper No. 20, page 3.) This rejection relates to the availability of the deposited *E. coli* strains recited in the claims. With respect to these strains, the Examiner stated that Applicants must provide a statement regarding 37 C.F.R. § 1.808(c). (See Paper No. 20, pages 3-4.)

Applicants hereby state that, the deposited strains are known and readily available to the public, and/or upon the granting of a patent relating to the deposited material, all restrictions on the accessibility of the deposited strains will be irrevocably removed and the strains will be available to the public.

In view of the statement set forth above, Applicants respectfully request that the rejection of claims 145-149 under 35 U.S.C. § 112, first paragraph, be reconsidered and withdrawn.

III. *Claim Rejections Under 35 U.S.C. § 102*

A. *Porter*

Claims 139 and 140 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Porter *et al.*, *Arch. Biochem. Biophys.* 254:353-367 (1987). (See Paper No. 20, page 4.) Applicants respectfully traverse this rejection.

Nonetheless, solely to expedite prosecution, claims 139 and 140 have been cancelled. Therefore, this rejection is moot and should be withdrawn.

B. Alterthum

Claims 142 and 143 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Alterthum *et al.*, *Appl. Environ. Microbiol.* 55:1943-1948 (1989). (See Paper No. 20, page 5.) Applicants respectfully traverse this rejection.

Nonetheless, solely to expedite prosecution, claims 142 and 143 have been cancelled. Therefore, this rejections is moot and should be withdrawn.

IV. Claim Rejections Under 35 U.S.C. § 103

A. Dower in View of Porter

Claim 141 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Dower *et al.*, *Nucl. Acids Res.* 16:6127-6145 (1988) in view of Porter *et al.* (See Paper No. 20, pages 5-6.) Applicants respectfully traverse this rejection.

Nonetheless, solely to expedite prosecution, claim 141 has been cancelled. Therefore, this rejections is moot and should be withdrawn.

B. Dower in View of Alterthum

Claim 144 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Dower in view of Alterthum. (See Paper No. 20, page 7.) Applicants respectfully traverse this rejection.

Nonetheless, solely to expedite prosecution, claim 144 has been cancelled. Therefore, this rejections is moot and should be withdrawn.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.


Frank R. Cottingham
Attorney for Applicants
Registration No. 50,437

Date: July 2, 2003

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

SKGF_DC1:146751.1